



An  
Bord  
Pleanála

## Inspector's Report ABP-302779-18

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<b>Development</b>	Construction of 26 no. two storey dwellings, in a mix of detached, semi-detached and terraced form.
<b>Location</b>	Main Street / R132, Dunleer, Co. Louth
<b>Planning Authority</b>	Louth County Council
<b>Planning Authority Reg. Ref.</b>	18360
<b>Applicant(s)</b>	Bellscape Ltd.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	To grant.
<b>Type of Appeal</b>	First and Third Party
<b>Appellant(s)</b>	1. Gerard Connor (third) 2. Bellscape Ltd (first)
<b>Observer(s)</b>	1. Gerry Crilly. 2. An Taisce
<b>Date of Site Inspection</b>	22 <sup>nd</sup> January 2019
<b>Inspector</b>	Deirdre MacGabhann

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## 1.0 Site Location and Description

- 1.1. The 3.08ha appeal site is located on Upper Main Street/Drogheda Road (R132), Dunleer, Co. Louth. Dunleer village lies c 1km to the east of the M1, mid-way between Junction 12 and Junction 13. It is c.14km north of Drogheda.
- 1.2. The village core lies north of the site and includes a mix of retail and service outlets along Main Street. The appeal site lies between the R132 and the White River. It comprises a broadly rectangular agricultural field that falls sharply to the east, towards the river. To the south is a laneway which leads to a riverside mill (White River Mill complex) and to the north is a Recorded Monument, a motte (RMP No. LH019-06408). The appeal site also lies partially within the zone of archaeological potential around Dunleer Town.
- 1.3. To the west of the R132 are detached dwellings setback from the public road by a broadly similar building line. Two residential developments lie to the rear of these properties, including the Woodland and Riverdale development's.

## 2.0 Proposed Development

- 2.1. The proposed development, as revised by way of significant further information (submitted 30<sup>th</sup> August 2018) comprises the construction of 26 no. two storey dwellings in a mix of detached (2 no.), semi-detached (12 no.) and terraced (12 no.) units. The two storey dwellings are arranged, broadly, in an L-shaped format with 19 units facing the R132 and the remainder perpendicular to the road. Rear gardens of some units are terraced to accommodate the change in levels on the site.
- 2.2. The properties facing the R132 are separated from the regional road by the new internal access road, which runs, in part, parallel to the public road, and an area of public open space. A play area is proposed to the south east of the development. A looped 2.0m wide footpath is provided alongside the River which connects to the R132 via the development. Arrangements for surface water include (a) permeable paving, and (b) an underground storage tank.
- 2.3. The application is accompanied by the following:
  - A planning statement which includes in appendices an Appropriate Assessment Screening Report (AA), an Urban Design Analysis, Design

Statement and Site Services Report. The AA screening report concludes that no effects on European sites are likely as a consequence of the development. The site services report indicates that the residential site (i.e. uppermost land) is not prone to flooding (lands immediately adjoining White River are at risk of fluvial flooding).

- A Landscape Masterplan for the site and adjoining lands. The applicant states that he will complete the riverside walkway, with associated amenities, tree planting throughout the development and playground area (but not equipment).
- Details of public lighting.
- Archaeological impact assessment.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

3.1.1. On the 20<sup>th</sup> September 2018 the planning authority decided to grant permission for the development subject to 31 conditions. Non-standard conditions include the following:

- No. 2 and 3 – Implementation of landscape plan and Invasive Species Management Plan.
- No. 5 – Requires a detailed conservation and management plan to be submitted prior to works commencing to ensure the conservation and preservation of the motte and its buffer zone and to provide access to the results of the archaeological remains, to be preserved by record.
- Nos. 10 to 23 – Require implementation of the conditions recommended by the Infrastructure Office in respect of roads and services (including detailed sections, surface water drainage details, construction details for riverside walkway, construction of attenuated storage structure, footpath, uncontrolled crossings and signage).
- No. 30/31 – Development contribution/bond.

## **3.2. Planning Authority Reports**

### **3.2.1. Planning Reports**

- 28<sup>th</sup> June 2018 – The report describes the site, its location and planning history, relevant planning policies, technical reports and submissions/observations made. It considers the merits of the application under a number of headings including principle, design, Part V, impact on adjoining properties, Natura 2000 network, heritage, water services, infrastructure and flooding matters. It recommends further information on planning and design issues, including landscaping and design of open space and play areas, detailed design of rear gardens (to address change in levels), cross sections and contiguous elevation of development, road, drainage and traffic issues (as per Infrastructure report) and archaeological assessment.
- 18<sup>th</sup> September 2018 – The report refers to the further information submitted and considers that the applicant has adequately addressed the matters raised and recommends that permission is granted subject to condition.

### **3.2.2. Other Technical Reports**

- Infrastructure (27<sup>th</sup> June 2018) – Recommends further information in respect of matters of technical design, including tracked path of refuse vehicle, controlling speed within the development, construction details for roads and footpaths, parking bay dimensions, drainage calculations, revised details of surface water attenuation, public lighting, cross section through amenity path, archaeological assessment report and ecological assessment report.
- Infrastructure (18<sup>th</sup> September 2018) – No objections subject to works being carried out in accordance with further information and subject to specified conditions (e.g. relocation of directional signage and provision of sightlines, details in respect of surface water drainage, construction detail of riverside walkway, public lighting, speed restraint measures).

## **3.3. Prescribed Bodies**

- Department of Culture, Heritage and the Gaeltacht (DCHG), 13<sup>th</sup> June 2018 – Site is partially within the zone of archaeological potential around Dunleer

town (LH019-064) and immediately adjacent to a motte of archaeological interest (RMP No. LH019-06408). Recommend an archaeological assessment.

- DCHG (19<sup>th</sup> September 2018) – Concur with mitigation measures proposed in Archaeological Assessment Report. Recommends a specific condition for the conservation and preservation of the motte.
- Inland Fisheries Ireland (IFI) 18<sup>th</sup> June 2018 – River White contains valuable spawning and nursery habitat and supports stocks of salmon, sea trout, brown trout and European eel and a significant contribution to the population of adult fish in River Dee (of angling tourism amenity). No objections subject to conditions that the WWTW at Dunleer has capacity to treat wastewaters, surface waters are adequately management by SUDS techniques and IFI consulted re: construction of walkway),
- IFI (11<sup>th</sup> September 2018) – No objections subject to measures being put in place to prevent any discharges to the adjacent river during construction.
- Irish Water (IW) 20<sup>th</sup> June 2018 – Further information required (capacity in water and foul water networks to accommodate the development).
- IW (13<sup>th</sup> September 2018) – No objections.

### 3.4. Third Party Observations

#### 3.4.1. Third parties make the following observations:

- Precedent set by planning history (PL15.218106).
- Impact on residential amenity (lights of cars exiting the development, overlooking).
- Visual impact – Inappropriate development at this location/topography, topography, external finish and boundary treatment (roadside boundary to house no. 20 should be high screen wall). Existing hedge bounding the public road will be lost to achieve sightlines. If removed, a new hedge should be planted in its place.
- Application shows no regard for the adjacent White River Mill complex (including gate-pillar at entrance to lane/mill and stream along boundary).

- Proximity to motte and potential for archaeological finds (as evidenced by exploratory test trenches dug in 2004). Archaeological assessment was inadequate (poor ground conditions and presence of Japanese Knotweed). Anomalies highlighted need further investigation.
- Development (and access) will add to traffic hazard along a busy road (speed limit often exceeded). Development is located in close proximity to junctions of R132 with Woodland Estate, Riverdale Estate and School Lane. Sightlines are restricted to the south. Speed limits regularly breached. Applicant should be required to provide traffic calming measures along the R132 (northbound carriageway, just south of Woodlands access). Proposed directional signage (relocated from current position) is within sightline triangle.
- River prone to flooding in winter and could be a danger to people and children.
- Importance of protecting White River.
- Impact on wildlife (including heron, otter and buzzard) and habitats.
- Development should provide public lighting along footpath.

## 4.0 Planning History

4.1. The following planning applications have been made in respect of the appeal site:

- PA ref. 05/1627 (PL15.218106) – Permission refused by the Board for 26 houses on the appeal site (out of character with the area, excessively close to road, visually obtrusive and substandard public and private open space).

4.2. Between 2005 and 2008 four other planning applications for residential development on the appeal site have been submitted to the planning authority and subsequently withdrawn.

## 5.0 Policy Context

5.1. **Louth County Development Plan 2015 to 2021.** Dunleer is identified as a Moderate Sustainable Growth Town in the current County Development Plan. Policy SS1 seeks to maintain the settlement hierarchy within the County and encourage residential development within each settlement that is commensurate with its



position in the hierarchy and the availability of public services and facilities. Policy SS 8 deals specifically with Dunleer and seeks to *'To promote and develop the resources of Dunleer to create a self sufficient, sustainable and vibrant community which will act as a local development and service centre for the border catchment area and to review the Dunleer Local Area Plan following the adoption of the Louth County Development Plan 2015-2021'*.

- 5.2. Guidelines for residential development are set out in sections 4.3 and 4.12 of the Plan. These include, in section 4.9.3.2 a requirement for 15% of total site as public open space. The Plan also states that *'Where residential developments are in close proximity to public parks or other natural amenities or in the town centre, a relaxation of the above standards may be permitted. Where open space standards cannot be achieved, more intensive recreational facilities may be accepted by the Council in lieu'*.
- 5.3. The **Dunleer LAP 2017 to 2023** identifies the site for residential development (Land Use Zoning Map 5.1). It is included in Phase 1 lands for low density development (Residential Phasing Map 5.3).
- 5.4. Land to the east of the site area zoned 'Open space, amenity and recreation', with the lands immediately adjoining White River (east and west) identified in Map 5.6 (Objectives) as a 'Park' and subject to an Amenity Objective. A 10m riparian buffer zone is also shown on both sides of the river.
- 5.5. In Map 5.6, White River Mill is identified as a Protected Structure. A zone of archaeological potential is indicated in Map 5.5 around Dunleer town, this extends across the northern part of the appeal site (see attachments).
- 5.6. Section 6.3.3 of the Plan deals with the proposed Riverside Amenity Park and Plan states that it is an objective to develop this either as a stand-alone amenity project or in conjunction with the future provision of high quality, low housing on adjoining residential zoned lands. It is stated that the detailed design should include:
  - High quality, safe pedestrian, cycle and cross country paths, including to Main St and Dublin Rd and links to adjoining lands;
  - To incorporate the Motte as an archaeological feature, ensure its protection and provide for its enhanced setting;

- Adopt a comprehensive approach to the development of these strategically located lands
- A crossing point over the river for pedestrians and cyclists;
- Creation of a strong sense of place and identity;
- A Riparian zone of minimum 10m to be kept free from development (except for pathways) along the side of each bank of the White River;
- An assessment of flood risk;
- High quality low density, residential and ancillary development with maximum heights of two-storey height.

5.6.1. Chapter 3 deals with natural and built heritage and includes policies NB 4 and NB 5 which seek to provide a riverside park along the River White and improve the visual quality of public areas, open spaces and approaches to the town.

5.6.2. Chapter 8 of the Plan sets out design principles and development management standards for residential development (see attachments).

## 5.7. Natural Heritage Designations

5.7.1. Nearest Natura 2000 sites, c.7km to the north east of the site, are connected to the appeal site are Dundalk Bay SAC and SPA (site codes 000455 and 004026 respectively). White River ultimately discharges into this waterbody.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

6.1.1. There are two appeals against the planning authority's decision, one by a third party and one by the first party. Matters raised are summarised below:

#### Third Party

- Inappropriate zoning of the site/precedent – The appeal site has been inappropriately zoned for residential development. The elevation and steeply sloping nature of the site make it unsuitable for development. Precedent set

by the Board under PL15.218106. Board's decisions under PL15.224309, PL15.225028, PL15.116681 and PL15.230464 confirm the inadequacy of the Local Area Plan/planning. The plan benefits developers and landowners. The appeal site represents the beginning of a large area of Open Space and Amenity in the current Dunleer Local Area Plan. It is unclear what the County Council's intentions are for the land (beyond a Riverside Park). The appellant's White River Mill Complex, with mill race and pond, would be the focal point for any regional park. The proposed development would be detrimental to any wider possibilities the area has to offer. Dunleer cannot continue to grow without provision of better public facilities. The proposed playground will not be provided with any play equipment before being taken in charge and will remain an aspiration. There is no reference to the Riverside Park in the applicant's Urban Design Analysis or analysis of public open space requirements.

- Inappropriate form of development - In particular housing at southern end of the site and the terraced units, is inappropriate as stated in the Inspector's report on the previous application on the same site (PL15.218106). There is no need for the development. There remains up to thirty undeveloped sites (with foundations, floor slabs etc.) on the western side of Dublin Road in the Woodlands/Riverside housing estate.
- Insufficient details provided for the proposed Riverside Park. There are no details for the Riverside Park except for the footpath, riparian zone of 10m and some tree planting in the middle. The local authority website states that areas of public open space will not be taken in charge.
- Impact of the development on wildlife habitats, traffic considerations and archaeological impacts. No wildlife survey has been carried out. It is unclear how the 10m riparian strip will be managed to protect wildlife species. No traffic survey was undertaken. The archaeological report wrongly refers to the absence of features south of an east west ditch C08. There is clear evidence of a ring fort in the south-eastern corner of the site adjacent to the appellant's lands.

#### First Party

- The planning authority has not properly applied the terms of its Development Contribution Scheme (condition no. 30(b) – Condition no. 30(b) of the decision to grant permission requires a financial contribution €31,200 in respect of amenity. The Planning Officer's assessment fails to take account that the applicant will be providing a significant public amenity area in the form of a riverside path and associated amenities, including outdoor gym equipment, seating areas, picnic tables, and soft grass landscaping. This provision is well in excess of what is required for the proposed development. It is therefore inappropriate to levy development contributions for amenity.
- Section 6.1 of the Development Contribution Scheme provides that no charge will apply to the non-built element of large scale outdoor recreational developments where the recreation facilities meet the landscape objectives of the development plan. The provision of a riverside park and associated amenities represents the non-built element of a large scale outdoor recreational development which is a specific landscape objective of the Development Plan (Objective Map 5.6, LAP). The applicant would not be providing the riverside path and associated amenities if it were not a requirement of the LAP to do so. The estimated cost of the path is €60,000 (excluding land costs). The local authority does not own the land on which the LAP for the riverside park. It is unreasonable to require the applicant to provide the land and fund the major elements of the Park and pay a development contribution towards amenities. The applicant is being required to provide 13 times the open space required for the development, cede the land and provide a substantial part of the park infrastructure and pay a levy of €31,200.
- Table 4 of the Scheme states that Upper and Lower Main Street Dunleer are eligible locations qualifying for exemptions/reductions in development contributions.
- The condition threatens the viability of the development.
- Request the Board to removed condition no. 30(b) of the permission.

## 6.2. Applicant Response

6.2.1. The applicant responds as follows to the third party appeal:

- Requests that the appeal, in respect of residential development, is prioritized in line with national policy.
- The development that was approved has evolved following pre-application discussions and the request for further information. It has regard to the planning history of the site and is consistent with the zoning of the site in the Dunleer LAP, which was recently adopted and the appeal site was zoned after sequential assessment of village lands.
- None of the previous reasons for refusal, under PL15.218106, apply to the proposed development. The terrace dwellings were not considered to be inappropriate. Several of the Inspectors findings, under PL15.218106, are equally valid in respect of the proposed development (impact on wildlife, traffic, archaeology and overlooking).
- As per the requirement of condition no. 2, the applicant commits to implementing the riverside walkway including associated amenities (playground, outdoor play gym equipment, seating areas, picnic tables, soft grass landscaping) and planting of trees, as per drawing 2017-57-11. The cost of providing the c.460m of riverside path, over sloping ground, is substantial (c.€60,000).
- It is the applicant's intention that the riverside path and associated amenities will be taken in charge.
- The development is consistent with policies of Louth County Development Plan and Dunleer LAP, including the zoning and phasing strategy for residential development and indicated density. It is a modest development on zoned land and a serviced site. The development would not interfere with any built or natural heritage features (including Natura 2000 sites). The proposal would facilitate and provide green linkages in the village.
- Land east of the housing (between houses and river) can readily facilitate a riverside amenity park in the future and the applicant is open to discussions with the planning authority in this regard.

- The hedgerow along the front of the site will be maintained, except to achieve the sightlines.
- The development is consistent with development management standards set out in the Dunleer LAP and the Louth County Development Plan.
- Approximately 4,000sqm of public open space is provided as part of the development (in excess of the required 15% of site area, 1,500sqm). The riverside path is included in this area as it, and the associated equipment, will be available for use by residents. The County Development Plan states that where residential development is in close proximity to public parks or other natural amenities or in the town centre, a relaxation of public open space standard or the provision of more intensive recreational facilities, may be acceptable.
- There is no legislative requirement for a wildlife survey. The site is a small agricultural field which has been used for grazing. Section 2.2 of the AA details evidence of fauna observed from a site walkover.
- There is no legislative or planning policy requirement for a traffic survey. Site is on zoned land within the village speed limit. The level of housing falls well below the threshold required for a transport impact assessment (200 units *Traffic Management Guidelines for Planning Authorities, Department of Transport, Tourism and Sport, 2012*). Under PL15.218106 the Inspector did not consider that the development would give rise to a traffic hazard. There are no objections from the Traffic/Transport Infrastructure section of the planning authority.
- The archaeological assessment was comprehensive. The DCHG were consulted and raised no objection to the development. An appropriate archaeological monitoring condition is attached to the decision to grant permission.

### 6.3. Planning Authority Response

6.3.1. The planning authority make the following comments on the appeals:

- All matters raised in the appeals have been addressed in the Planning Reports.
- Site is zoned for residential development and lands are to be developed in accordance with the requirements of section 6.3.3 (Riverside Amenity Park), Dunleer LAP, 2017-2023. The development of the land and Riverside Park are intrinsically linked.
- Provision of landscaping is proportionate to the scale of development.
- Development contributions could be used to implement the play park on the subject site. This would be an Executive Decision of the Council.
- The Development Contribution Scheme 2016-2023 was implemented correctly.

#### 6.4. Observations

- 6.4.1. There are two observations on the appeal, one by a third party and one by An Taisce.

##### Gerry Crilly

- The planning application for the development is inappropriate and has arisen out of a controversial material contravention of the Dunleer LAP 2003-2009. The land is inappropriately zoned.
- The proposed development will adversely affect the character of the area (White River Mill, associated buildings, mill pond, its topography, setting and surrounding agrarian landscape and archaeological features).
- Flooding on site.

##### An Taisce

- The layout and design of the proposed development would be domineering and visually intrusive, when viewed from the south on the R132 (rear of units 20, 21 and 22 would be visually prominent, out of character and detract from the landscape setting on approach to the village). Development would conflict with policy NB 5 of the Dunleer LAP.

- The application is deficient in archaeological assessment i.e. the impact of the development on the features and areas associated with the motte.
- The development would adversely affect the setting and curtilage of the medieval motte to the north and the approach to the historic mill complex to the south east.
- Precedent set by the Board under PL15.218106.
- Long term viability of the proposed open space is unclear and would undermine the achievement of Policy NB 4.

## 6.5. Further Responses

6.5.1. None.

## 7.0 Assessment

7.1. Having regard to the information on the appeal file and my inspection of the site, key matters for this appeal relate to the following:

- Principle/need.
- Precedent.
- Impact on visual and residential amenity (including boundary treatment).
- Provision of riverside park/compliance with policies of the Dunleer LAP.
- Impact on wildlife.
- Flooding and impact on White River.
- Traffic.
- Archaeology.
- Development contribution.

## 7.2. Principle/Need.

7.2.1. Parties to the appeal refer to the inappropriate zoning of the site in the current (and previous) Local Area Plan for the town and to unfinished housing estates elsewhere in the town.



- 7.2.2. The zoning of the appeal site, and the manner in which housing need is identified, is a matter for the planning authority in the making of their development plans. It is therefore outside the jurisdiction of the Board. Further, under the provisions of the Planning and Development Act, 2000 (as amended), the Board is required to have regard to the policies that are set out in the adopted Plan.
- 7.2.3. In this regard, the appeal site comprises land zoned in part for residential development, to come forward within phase 1 of the phasing strategy (2017 to 2023), and the remainder as open space, amenity and recreation. The proposed residential development, with riverside walkway and landscaped open space, is therefore in principle consistent with the zoning objectives for the site.
- 7.2.4. Dunleer is identified in the County Development Plan as a Moderate Sustainable Growth Town and the government's guidelines on Sustainable Residential Development in Urban Areas encourage higher residential densities in town centres and densities on no less than 30 units/hectare on greenfield sites.
- 7.2.5. The Dunleer LAP identifies the appeal site for high quality, low density housing, in accordance with section 6.3.3 of the Plan which sets out requirements in respect of the Riverside Amenity Park on adjoining lands (see attachments). The proposed development of 26 units on a site of 0.9ha (zoned residential land) has a density of just under 30/hectare. Given the particular location of the appeal site, its configuration and location adjoining steeply sloping ground and an archaeological monument, the proposed density seems reasonable and consistent with the environmental and policy context for the site.

### 7.3. **Precedent.**

- 7.3.1. Under PL15.218106 permission was refused by the Board for a development of 26 residential units on the appeal site. The three storey, terraced residential development was refused on the grounds of visual and residential amenity:
- The development would be out of character with surrounding development, visually obtrusive and excessively close to the road and provide a discordant entrance to the village.
  - The three storey units, on elevated ground, would be visually obtrusive in westerly views from the zoned open space.

- The communal and private open space areas along the eastern boundary of the development, due to their alignment and location on steeply sloping ground, would provide a substandard level of residential amenity for residents.

7.3.2. The proposed development proposes the same number of residential units as that refused under PL15.218106. However, the height and layout of the development has been altered to address the matters raised in the Board's refusal (two storey, detached and semi-detached units, set back from the public road). Further, private open space has been designed such the slopes are reasonable or rear gardens are terraced to provide functional spaces. The play area has also been designed to utilise the slope, with slides spanning across the slope of the open space. Having addressed these matters, I consider that the application is demonstrably different from the previously refused and should be considered on its merits.

#### 7.4. **Impact on visual and residential amenity (including boundary treatment).**

7.4.1. The appeal site is located at the entrance to Dunleer town. It currently provides an open space to the east of the R132 as one enters from the south. Views across the site are precluded by the roadside hedgerow, but there are glimpsed views of the town to the north east. To the south the site is framed by mature trees along its southern boundary (the lane to White Mill) and to the north it is bounded by the Motte. To the east the site slopes steeply to the River and to the west low-density housing, set back from the regional road, faces the site.

7.4.2. White Mill is situated to the south east of the site and is physically and visually separated from it. Access to the mill complex is via a lane immediately south of the site. Mature trees line this lane and are to be retained as part of the development. Having regard to the level of separation and proposals to retain this hedgerow, I do not consider that the development would adversely affect the setting of this collection of buildings or the approach to them. At the time of site inspection I could not identify the location of the gate-pillar referred to by the appellant. However, if the Board are minded to grant permission for the development, this matter (and the protection of the boundary ditch/stream) could be dealt with by condition.

7.4.3. The proposed development lies immediately south of the motte on the site and the proposed gravel path runs immediately south of it, cut into the rising topography. The motte is an attractive feature and is identified in the LAP for protection and with the any proposals for the Riverside Amenity Park (and associated housing development) to 'provide for its enhanced setting'. As designed, the footpath encroaches onto and conflicts with the circular form and open setting of the motte and is in my view at odds with policies of the LAP, failing to provide a long term, contemporary context for this structure.

7.4.4. With regard to the overall configuration of the development at the entrance to Dunleer, adjoining zoned open space and on the steeply sloping site, I would comment as follows:

- The current roadside hedge precludes substantial views into and across the site. There is therefore already a sense of 'enclosure' and I do not consider that a built form along part of this roadside, in particular given the zoning of the site, be either inappropriate or unattractive.
- The two storey development with the sloped or terraced rear gardens is an improvement on the previous development of three storey units (under PL15.218106). However, the development on its elevated site will remain visually dominant, when viewed from the open space area, and turn its back on it, presenting little opportunity for passive surveillance. Whilst I recognise the limitations of the appeal site, in terms of its area, shape and topography, the design solution does not address this issue in any meaningful way and provides a poor long-term context for the use and amenity value of this open space area (e.g. increasing the risk of anti-social behaviour). It is at odds therefore with the very clear policy context that the lands be developed in conjunction with the provision of the riverside park. I consider that this requires, as set out in paragraph 6.3.3 of the Plan, a comprehensive approach to the design of the adjoining elements, with spaces and land uses addressing and complimenting each other. I note that the applicant's Design Statement and Urban Design Analysis does not satisfactorily address this matter (for instance, they address connectivity but not public realm within the Amenity Park).

- With regard to the provision of play equipment in the play area, this matter is not fully addressed and whilst I would accept the planning authority's intentions in this regard, there remains a risk that the play area would not be completed in any defined timescale.

7.4.5. The proposed dwellings are separated from properties to the west of the site by the R132 and internal access road and will not adversely affect any of the existing properties by virtue of overlooking. In the interest of visual amenity, if the Board are minded to grant permission for the development, I consider that the roadside boundary of unit no. 20 should comprise a block wall for its length alongside the public road, with dry dash or stone to the public road (to be agreed with the planning authority). I note that the boundary hedgerow will be retained along much of the length of the site and replanted where necessary to achieve the required sightlines. This matter could be controlled by condition.

#### **7.5. Impact on wildlife.**

7.5.1. The appeal site comprises an existing agricultural field and its riverside edge. The residential component is confined to agricultural lands removed from the river and the riverside edge will be retained. Further, the proposed riverside path will be constructed in lands currently in agricultural use and outside of the 10m riparian buffer zone (see Appropriate Assessment screening report). I do not consider, therefore, that the development would have an adverse effect on wildlife in the riverside corridor. Construction effects could be readily mitigated by condition (i.e. to enforce best practices in river corridors).

#### **7.6. Flooding and impact on White River.**

7.6.1. The OPW's flood information indicates that the appeal site is prone to flooding alongside White River. Given the location of the residential component to the west of the site, on the uppermost lands, the proposed development is unlikely to be affected by flooding. Further, having regard to the arrangements on file for managing surface water (in conjunction with the additional measures proposed by the planning authority and IFI by way of condition), the development is unlikely to give rise to flooding or risk of pollution of White River.

## **7.7. Traffic.**

- 7.7.1. Parties to the appeal raise concerns regarding traffic hazard arising from the proposed new access onto the R132 and the additional vehicle trips that would be generated by the development. However, having regard to the relatively modest scale of the development, its location in an established urban area within the restricted speed limit zone of Dunleer town and the proposed sightlines of 150m in each direction (consistent with the requirements of DMURS Section 4.4.4 and Table 4.2, see attachments), I do not consider that a traffic impact assessment is warranted or that a traffic hazard would arise.

## **7.8. Archaeology**

- 7.8.1. The appeal site has been subject to two archaeological surveys (test trenches) in 2004 and in 2018 (as part of the current application) and geophysical survey. The survey work has found archaeological material principally on the northern part of the site and no stated evidence of a ring fort to the south east (although I do note that no significant works are proposed in this area). Further, the majority of deposits are not considered to warrant preservation in situ (ditch C8, which runs east west across the northern part of the site is identified to be of early medieval or Anglo-Norman origin, is considered to merit preserved in situ, below the foundations of the internal road, houses and back gardens). The applicant's Archaeological Assessment sets out a number of mitigation measures including a buffer zone from the motte, archaeological excavation of the northern part of the site (see Figure 11 of Report) in advance of construction works and archaeological monitoring of all soil stripping.
- 7.8.2. The findings of the Assessment, including its limitations of the geophysical study (drought conditions which may obscure features – see page 13 of Assessment) and the proposed mitigation measures have been accepted by the Department of Culture, Heritage and the Gaeltacht. Having regard to the conclusions of this Department and my own review of the Archaeological Assessment, I consider that the proposed development will not adversely impact on underground archaeological deposits subject to implementation of the mitigations measures proposed in the Archaeological Assessment and as per the recommendations of the Department. Notwithstanding this, for the reasons stated above I remain concerned that the

proposed development pays insufficient regard to the setting of the Motte to the north of the site.

## 7.9. Development Contribution

- 7.9.1. Condition no. 30 of the planning authority's decision to grant permission requires payment of a development contribution of €140,400, comprising €109,200 towards Infrastructure (including roads and surface water) and €31,200 towards amenity (including parks, recreation, amenity and community facilities). The development contribution is calculated on the basis of the 26 units x the contribution per unit set out in the Development Contribution Scheme (see attachments).
- 7.9.2. Under Article 6.0 of the Scheme, certain exemptions and reductions to are set out. These include:
- Under 6.1 Exemptions, category 8 *'The non-built element of large scale outdoor recreational developments such as golf courses, sports pitches and tennis complexes where the recreation facility meet the landscape objectives of the development plan. No charge'*.
  - Under 6.2 Reductions, point 2 - *'There will be a reduction in the rates for residential and non-residential developments in town centre areas and in Phase 1 Lands'*.
  - Under 6.3 Exemptions and Reductions Tables, Table 2, Residential Development *'Consolidation of Urban Core Area - .. Dunleer.. Town Centre and Core Strategy Phase 1 Lands 20%'*. Table 4, Eligible Locations qualifying for Exemptions/Reductions..Dunleer *Upper and Lower Main Street*.
- 7.9.3. The proposed development comprises provision of some of the non-built elements of the Riverside Amenity Park, to the west of the River White, namely lands, walkway and landscaping and in effect provides a large scale outdoor recreational development which is beyond the scale of the proposed development. However, as written the development contribution (under 6.1, category 8 above) exempts the 'non-built' element of the large scale outdoor recreational developments. In this case, it is the 'built' element that the development charge is levied against. Hence, the exemption under Article 6.1, Category 8 does not apply.

- 7.9.4. With regard to Article 6.0, the appeal site comprises a residential development on Phase 1 lands. If the Board are minded to grant permission for the development, a reduction in development charges of 20% should apply, to both the infrastructure and amenity elements of the development contribution charge levied and would provide a more equitable basis for the development contribution, in view of the public open space being provided.

## **8.0 Environmental Impact Assessment**

- 8.1. The proposed development constitutes an EIA project comprising works or interventions in the natural environment. It is also a type which falls within a class of development set out in Part 2 of Schedule 5 of the Planning and Development Regulations 2001 (as amended), Infrastructure Projects (construction of dwelling units). However, having regard to the scale and nature of the development, its location in an urban environment, means to discharge wastes from the site and distance from nearby sensitive locations, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## **9.0 Appropriate Assessment**

- 9.1. The proposed development will be connected to the public water main and public sewer. Outfalls from the site are confined principally, therefore, to surface water during construction and operation and possible contaminants e.g. suspended solids and hydrocarbons, discharging into the River White. I note that the applicant proposes managing these emissions by the adoption of good practices during construction and via the controlled discharge of surface water (underground attenuation tank).
- 9.2. The River White outfalls into Dundalk Bay c. 7km to the north east of Dunleer (no other Natura 2000 sites are connected to the appeal site). Given the relatively small scale of the proposed development, arrangements for service and the distance of the appeal site from Dundalk Ba, no Appropriate Assessment issues arise and it is not

considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## 10.0 Recommendation

10.1. Having regard to my assessment above, I recommend that permission be refused for the reasons and considerations set out below.

## 11.0 Reasons and Considerations

It is the policy of the Dunleer Local Area Plan that the appeal site be developed for high quality, low density residential development in conjunction with the adjoining riverside amenity park and the protection of the archaeological monument on site (Motte). This policy is considered reasonable. The proposed development by virtue of its design, layout and orientation which encroaches onto the setting of the monument and turns its back on the amenity park, will provide a poor standard of development of these strategically located lands in direct conflict with the policies of the Local Area Plan. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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Deirdre MacGabhann  
Senior Planning Inspector

31<sup>st</sup> January 2019